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April 22, 2010

ORIGINAL
FILED

April 26 2010

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STATE OF MONTANA

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Hon. Mike McGrath
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Hon. Brian Morris
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Hon. Michael Wheat

Supreme Court Justices
Montana Supreme Court
Room 414, Justice Building
P.O. Box 203001
Helena, MT 59620-3001

FILED

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Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Re: ***Rules 7.1, 7.2, and 8.5 of the Montana Rules of Professional Conduct***

Dear Justices:

On February 5, 2010, I sent you a letter making some comments regarding these proposed rules and the impact they have on Rule 1.5(e). In my letter I addressed the problem created by the meaning of "joint responsibility" under Rule 1.5(e), and I proposed an easy fix by amending Rule 1.5(e)(1) to add a clause after the semicolon following the word "representation," to wit:

Joint responsibility can only be satisfied by both lawyers appearing as attorneys of record for the client, which necessitates *pro hac vice* admission for lawyers not admitted to practice in Montana.

This, indeed, would be a good fix for cases that are actually filed in Court. I overlooked the situation where a case is handled without an actual Court filing. As a result, I propose that the above language be used in cases which are filed in Court and that the below language be used in all other cases:

Joint responsibility can only be satisfied if each lawyer agrees in writing to at all times partake in the representation and to undergo the financial and ethical responsibility of that representation to the client.

Also, I have been advised that Shaun R. Thompson, of the Office of Disciplinary Counsel, has filed a comment pointing out the disciplinary problems for lawyers outside the state of Montana. My proposal provides a very simple fix to the problem predicted by Mr. Thompson. (I am not proposing in any way for this Court or the Office of Disciplinary Counsel to enforce these rules against out-of-state counsel). These rules can be enforced very simply and expeditiously against

Justices
April 22, 2010
Page 2

Montana lawyers and the Montana lawyers will simply realize they must tell these out-of-state lawyers that they, the Montana lawyers, cannot deal with the out-of-state lawyers on this basis without violating the ethical rules. For this reason, my proposal, at least in my opinion, will in no way create any of the disciplinary authority problems raised by Mr. Thompson.

Thank you.

Sincerely yours,

A handwritten signature in black ink, reading "Zander Blewett". The signature is written in a cursive, flowing style.

Alexander (Zander) Blewett, III

AB:jj